

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2010 FEB 24 PM 1:57

JEANNE HICKS, CLERK

Shaurina Kelbaugh

BY: _____

Larry A. Hammond, 004049
Anne M. Chapman, 025965
OSBORN MALEDON, P.A.
2929 N. Central Avenue, 21st Floor
Phoenix, Arizona 85012-2793
(602) 640-9000
lhammond@omlaw.com
achapman@omlaw.com

John M. Sears, 005617
P.O. Box 4080
Prescott, Arizona 86302
(928) 778-5208
John.Sears@azbar.org

Attorneys for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

) No. P1300CR20081339

) Div. 6

) **SUPPLEMENTAL MOTION TO**
) **PRECLUDE TESTIMONY OF**
) **RICHARD ECHOLS**

Mr. DeMocker, by and through counsel, hereby files this supplemental motion to preclude the testimony of Mr. Richard Echols.

ARGUMENT

In November 2009 the Court ordered the State to disclose to the defense a list of the documents Mr. Echols relied on as soon as possible. The State failed to comply. In

1 December, the State disclosed a list of document descriptions of what Mr. Echols relied
2 on but did not provide the Bates labels of those documents. On January 14, 2010, the
3 Court ordered the State to provide either a list of Bates labeled documents or newly Bates
4 labeled documents that were relied on by Mr. Echols "by the end of the week." The State
5 again failed to comply.
6

7 On January 22, 2010, the Court again specifically ordered the items Mr. Echols
8 relied on in reaching the conclusions in his report and testimony to be identified to the
9 defense by January 29, 2010. The State failed to comply. The Court also ordered the
10 State to identify by February 12 by Bates number the documents Mr. Echols would rely on
11 at trial. The State again failed to comply. Instead, the State produced a laundry list of
12 categories of documents to include "emails obtained by DPS Computer Forensics Lab"
13 and "any and all documents obtained from "Anna Young" "John Casalena" and "Cynthia
14 Wallace." The Court had already advised the State that such a list was not proper
15 disclosure. These disclosures do not provide the defense with the notice required under
16 Rule 15.1 and do not comply with the Court's repeated orders. At 4:50 p.m. on February
17 22, 2010, nearly three months after the initial order, the State finally emailed counsel a
18 two page list identifying by Bates numbers the documents on which Mr. Echols relied.
19 This was done with with less than ten weeks to trial in a death penalty case for a key
20 witness on both motive and an aggravating circumstance.
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25 Mr. Echols' testimony is related to key issues in the case. The defense has been
26 unable to interview Mr. Echols and prepare its own experts to respond or rebut his
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28

1 testimony. The State has produced literally thousands of pages of financial information to
2 the defense, including over 23,000 pages of emails from UBS that were not disclosed
3 until February 18, 2010.¹ This is in addition to volumes of other late disclosed experts,
4 evidence and witnesses. Mr. Echols' previous testimony has been well beyond the scope
5 of his expertise, as this Court has noted. The State's repeated refusal to comply with
6 Rule 15.1 or this Court's orders which required the disclosure in November 2009 and
7 January of 2010 should be sanctioned by Mr. Echols' exclusion.
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9

10 **CONCLUSION**

11 Defendant Steven DeMocker, by and through counsel, hereby requests that this
12 Court prohibit the State from offering testimony from Mr. Echols.
13

14 DATED this 24th day of February, 2010.

15
16 By: 

John M. Sears
P.O. Box 4080
Prescott, Arizona 86302

17
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19 OSBORN MALEDON, P.A.
Larry A. Hammond
Anne M. Chapman
20 2929 N. Central Avenue, Suite 2100
21 Phoenix, Arizona 85012-2793
22

23 Attorneys for Defendant

24 **ORIGINAL** of the foregoing hand delivered for
25 filing this 24th day of February, 2010, with:
26

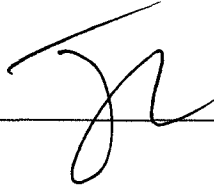
27 ¹ This disclosure is the subject of other motions to preclude.
28

1 Jeanne Hicks
2 Clerk of the Court
3 Yavapai County Superior Court
4 120 S. Cortez
5 Prescott, AZ 86303

6 **COPIES** of the foregoing hand delivered this
7 this 24th day of February, 2010, to:

8 The Hon. Thomas B. Lindberg
9 Judge of the Superior Court
10 Division Six
11 120 S. Cortez
12 Prescott, AZ 86303

13 Joseph C. Butner, Esq.
14 Prescott Courthouse basket

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